

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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MANAGING DIRECTOR

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Shaun A. Maher, Esq.  
Blair, Joyce & Silva  
1825 K Street, N.W.  
Suite 510  
Washington, D.C. 20554

92-285 /

Dear Mr. Maher:

This will respond to your request for refund of a hearing fee filed on behalf of Russ Robinson in connection with his construction permit application for a new FM station at Richwood, Louisiana.

You state, and our records reflect, that prior to the Notice of Appearance deadline, Russ Robinson filed a settlement agreement with the other mutually exclusive applicant. The settlement agreement has been approved, the environmental issue against Russ Robinson has been deleted, and his application has been granted without hearing. Under the circumstances, refund of Russ Robinson's hearing fee is appropriate. See 47 C.F.R. §1.1111(b)(4).

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$6,750.00

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TELECOPIER  
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February 1, 1993

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Mr. Andrew S. Fishel  
Managing Director  
Federal Communications Commission  
1919 M Street, N.W.  
Room 6390  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE CLERK

Re: Request For Refund of Hearing  
Fee For Russ Robinson  
MM Docket No. 92-285  
Richwood, Louisiana

Dear Mr. Fishel:

This letter is being submitted on behalf of Russ Robinson ("Robinson") to request a refund of Mr. Robinson's \$6,760 hearing fee. In support whereof, the following facts are shown.

Mr. Robinson submitted an application for a new FM Station at Richwood, Louisiana (File No. 910826ML) during the window opened by the Commission's Report and Order, DA 91-660, released June 11, 1991. One other party, Barbara Dawson Monk d/b/a Urban Network Communications ("Urban"), also filed during the window (see File No. 910826MM). Both applications were listed as "Accepted For Filing" by Public Notice, Report No. NA-155, released December 27, 1991 and instructed to pay the Commission's Hearing Fee of \$6,760. Mr. Robinson paid his fee (see attached copy of the fee filing check) and this payment was assigned Fee Control No. 92030281703350002.

Both the Robinson and Urban applications were designated for hearing on December 8, 1992. See Hearing Designation Order, MM Docket No. 92-285 ("HDO"), DA 92-1591, released December 8, 1992. Both parties were instructed to file a Notice of Appearance within 20 days of the released of the HDO or before December 28, 1992. In the interim, Robinson and Urban reached a settlement, whereby Urban agreed to dismiss its application in exchange for monetary consideration equal to its out-of-pocket expenses to date. The Settlement Agreement was filed with the Presiding Judge on December 28, 1992, the Notice of Appearance deadline, and later granted. See Memorandum Opinion and Order, FCC 93M-40, released January 27, 1993 ("MO&O").

In the HDO the Commission noted that Robinson's Radiation Hazard Statement, included in his original application, should have stated that power will be reduced or terminated, when maintenance is being performed on Robinson's transmitter site. While the "or terminated" language was inadvertently omitted from Robinson's application, it was always his intention to reduce and/or terminate power in an effort to avoid possible RF radiation exposure to site maintenance workers. Despite his intentions, the Commission added the following contingent issue in the HDO:

1. If a final environmental impact statement is issued with respect to Robinson in which it is concluded that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by 47 C.F.R. §§1.1301-1319.

HDO at ¶7.

While adding the contingent issue, the Commission also stated that Robinson could amend his application to provide additional environmental assessment information and more importantly, "in the event the Mass Media Bureau determines...that the applicant's proposal will not have a significant impact upon the quality of the human environment, the contingent environmental issue shall be deleted and the presiding judge shall thereafter not consider the environmental effects of the proposal." HDO at ¶2 (emphasis added).

Along with the Settlement Agreement filing, Robinson submitted an amendment to provide a newly prepared Radiation Hazard Statement which included the omitted information concerning the termination of power during site maintenance. Robinson also submitted a "Motion To Delete Issue" to have the contingent environment issue deleted. The Audio Services Division, by a letter dated December 30, 1992 (1800B3-JDB), notified the Presiding Judge that they were satisfied with the submission and that deletion of the contingent issue was appropriate. Counsel for the Mass Media Bureau also imposed no objection. See Mass Media Bureau's "Comments" filed January 7, 1993. In his MO&O granting the Settlement Agreement, the Presiding Judge accepted Robinson's amendment, deleted the environmental issue, granted Robinson's application and terminated the proceeding. See MO&O, supra.

Under §1.1111(b)(4) of the Commission's Rules, a party may receive a refund of their hearing fee if (1) a settlement agreement is submitted by the deadline for filing a Notice of Appearance and calls for the dismissal of all but one of the

applicants; (2) the surviving applicant is immediately

~~reinstated and (3) the matters specified in the designation~~

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ISSUES: 6760.00

Sixty & 7/10 DOLLARS

*[Signature]*